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U.S. House of Representatives

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JANICE MAYS,
MINORITY CHIEF COUNSEL

July 22, 2013

The Honorable Jacob Lew
Secretary of Treasury
U.S. Department of Treasury
1500 Pennsylvania Ave., N.W.
Washington, D.C. 20520

Dear Secretary Lew:

On July 2, 2013, the Department of Treasury (Treasury) announced by way of its "Treasury Notes Blog" that the employer reporting requirements and the employer mandate tax penalties of the President's health care law "will not apply until 2015." The announcement came as a surprise to opponents and proponents of the law alike, and seemed at odds with the President's statement on June 6 that apart from some "glitches" and "hiccups" the law was operating as it "was designed to work."

On July 17, 2013, the Ways and Means Subcommittee on Health held a hearing to receive testimony from Mark Iwry, Senior Advisor to the Secretary and Deputy Assistant Secretary of the Treasury for Retirement and Health Policy, to examine what led to the decision to delay the employer mandate, what authority Treasury relied on to delay statutory provisions and Treasury's analysis of how the delay will affect implementation of other provisions of the health care law. Mr. Iwry was put forward by Treasury to speak to these questions, but unfortunately was unable answer basic questions about the extent and timing of the deliberations leading up to the Blog post announcing the delay in the employer provisions. We write today to ask for information and documents to supplement Mr. Iwry's testimony.

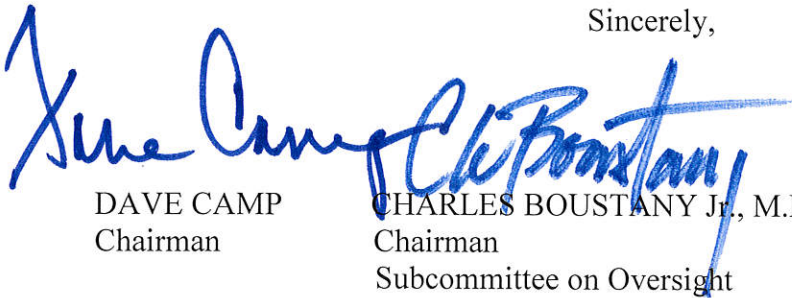
Please provide answers and all documents relating to the following no later than August 5, 2013:

1. When did Treasury personnel begin to consider delaying implementation of the employer reporting requirements and the employer mandate tax penalties (employer provisions) of the Affordable Care Act (P.L. 111-148 and P.L. 111-152)(ACA)? In support of this answer identify when discussions involving Treasury personnel began about:
 - a. Whether the President had the authority to suspend the employer provisions of the ACA;
 - b. The effects of suspending of the employer provisions on the operation of the ACA generally; and
 - c. The rationale for or benefits of suspending the employer provisions.
 - d. Identify the personnel involved in these discussions.
2. Did the deliberations described in question #1 above consider the affect of suspending the employer provisions on pending lawsuits that challenge the legality of the employer provisions?
3. Did the deliberations described in question #1 above consider suspending the implementation of the individual mandate provisions of the ACA?
4. Were IRS personnel informed or consulted about Treasury's deliberations? If so, identify the IRS personnel and when they were informed or consulted.
5. Were other agencies, including but not limited to, the Department of Health and Human Services, informed or consulted about Treasury's deliberations? If so, identify the agency personnel and when they were informed or consulted.
6. When were White House personnel informed or consulted regarding Treasury's discussions about suspending the employer provisions of the ACA? Identify who at the White House was informed or consulted.
7. The July 2, 2013 announcement to suspend the employer provisions of the ACA was made through your Department's "Treasury Notes Blog," the same blog that announced far less consequential news, for example, your July 3, 2013 visit to the Denver Mint. Who at Treasury was involved with the decision to announce this decision in this manner?
8. Please provide the analysis Treasury officials relied on in making the decision to suspend the employer provision relating to:
 - a. The impact of the delay on federal spending;
 - b. The impact of the delay on federal tax revenues;

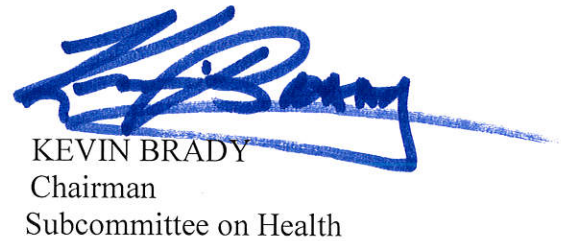
- c. The impact of the delay on job creation – if so how much?
- d. The impact of the delay on number of individuals enrolled in the Exchanges; and
- e. The impact of the delay on number of individuals with employer-sponsored insurance.

Please contact staff at: (202) 225-3625 if you have questions.

Sincerely,


DAVE CAMP
Chairman


CHARLES BOUSTANY Jr., M.D.
Chairman
Subcommittee on Oversight


KEVIN BRADY
Chairman
Subcommittee on Health